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Larry M. Weil, Community Development Director
Tim Solberg, AICP, Director of Planning and Zoning
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission
February 12, 2018 at 7:00 P.M.
West Fargo City Hall

Members Present: Scott Diamond
Joe Kolb
Shane LeBahn
Tom McDougall
April Walker
Jana Reinke

Members Absent: David Gust

Others Present: Larry Weil, Tim Solberg, Lisa Sankey, Dustin Scott, Jeremy Spanier, Erin Soderstrom, Christina McNeal, Matt Sturlaugson, Phillip Siek, Brian Kounovsky

The meeting was called to order by Chair McDougall.

Commissioner Kolb made a motion to approve the January 8, 2018 meeting minutes as printed. Commissioner Walker seconded the motion. No opposition. Motion carried.

The first item on the agenda was Discussion on house in C: Light Commercial District at 109 1st Avenue West (Lot 5, Block 7 of Sukut Estates Subdivision), City of West Fargo, North Dakota.

Tim stated that this item is on the agenda tonight to request rezoning of a property from C to residential. On an aerial photo he pointed out the location directly west of the fire hall, east of Dee's trailer park where an affordable senior living project has been approved. Mr. Twomey has purchased the house directly east of Dee's, which would leave the remaining home by itself. Because the house is zoned commercial, if 50% of it damaged, it cannot be rebuilt. It's a legal nonconforming use. Staff is looking for direction on how to proceed.

Larry reviewed the history of the area. In the 1950s during the Comp Plan process the City looked at the downtown area and thought commercial was more appropriate for this area and in the 1980s when the current zoning ordinance was put in place, this was reemphasized. Discussion was held regarding options. If the property could be rezoned, if the Fire Hall or City would consider purchasing, including it as part of the TIF District.

Tim stated that there is a potential sale on the home and because of the zoning, the buyer cannot get a mortgage.

Realtor Erin Soderstrom, representing the buyer, stated that the bank won't allow a mortgage, the buyer can't get a loan and the seller has moved to another home and doesn't want to have two mortgages. Jeremy Spanier stated that he was able to get a mortgage 8 years ago. The house is vacant and has been kept up. Because of the potential buyers he can't rent it out.

Commissioner Walker asked if it wouldn't be awkward to have a single zoning for the house. Tim stated that for the senior project, the property was to residential PUD. If the commission directs staff to do so, the two lots west of the fire hall could be rezoned to R-2. The hearing on the rezoning could be scheduled for the next meeting.

Commissioner Walker made a motion to direct the planning staff to pursue rezoning both properties. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A18-3 Conditional Use Permit for home occupation (hair salon) which will have customers coming to the residence at 1840 Huntington Lane (Lot 35, Block 4 of Huntington Woods Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The applicant is seeking to operate an existing hair salon business out of her home with appointment only service to customers. Section 4-448.10 states that as a conditional use, the City may consider a home occupation use which has customers coming to the site. It further states that the City may place any conditions on the home occupation as deemed necessary to insure that it will not be a detriment to the character and livability of the surrounding neighborhood.

Home based businesses are required to provide off-street parking for customers in addition to the two required spaces for all single family residential units. Currently it appears that the property can accommodate 4 on-site/off-street parking spaces including space in the garage for the residential use.

With reference to the criteria for granting conditional uses, no concerns were noted.

Property owners within 350' and applicable agencies and departments were notified. No comments were received.

It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Applicant meet all requirements set forth in the provisions for home occupations found in Section 4-448 of the City Ordinances.
2. Adequate parking for both the home occupation and the residence be maintained.
3. A Signed Conditional Use Permit Agreement is received.

There were no comments from the public. The hearing was closed.

Commissioner Diamond asked if hours of operation needed to be included. Tim stated that conditions can be added. Because a conditional use permit stays with the property, a condition be added that it be released upon sale of the property. It's probably not an issue as it's clear the use being approved is for a hair salon and the conditional use permit agreement lays that out.

Commissioner Reinke asked if they could expand to the whole building. Tim stated that under the ordinance only 25% of the property can be used for the home occupation and they meet parking requirements. Discussion was held regarding limiting the use if sold. Applicant Kristina McLean indicated she had no problem with that.

Commissioner Diamond made a motion for approval based on the three conditions listed in the staff report, as well as an additional condition that the Conditional Use Permit be released upon sale of the property to another owner. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A18-4 Conditional Use Permit for an accessory building greater than 1,600 ft² within the R-R: Rural Residential Zoning District at 4519 4th Street West (Lot 4, Block 1 of Nelson Acres 4th Addition), City of West Fargo, North Dakota.

Tim reviewed the following information:

The applicant has provided a site plan which proposes a 44' x 88' (3,872 ft²) accessory structure to be built east of his home. The R-R zoning district allows for accessory structures greater than 1,600 ft² as a conditional use provided they are in character with the development pattern of the subdivision they are in.

The applicant has stated that they are planning to place the building close to the house to preserve open space to the south in the event that the property is subdivided in the future.

It is important to note and make the applicant aware of the provisions for home occupations as well as the permitted uses with the district prior to obtaining a building permit. Given the large size of the accessory building, staff has included the provisions to the staff report for the Commission to reference and would encourage these to be noted in the conditional use permit.

With reference to the criteria for granting conditional uses, no concerns were noted. The land adjacent to this area is R-R: Rural Residential District and similar style and sized accessory buildings have been previously approved within the subdivision. The proposed use is viewed as generally compatible with adjacent properties and other property in the district. The proposed accessory building would be in character with the purpose of the subdivision. Larger accessory buildings are allowed for rural

residential equipment storage, barns for farm animals, etc.

Property owners within 350' were notified and no comments were received.

The application is providing an accessory structure and use to an existing use, and therefore the application may be considered consistent with the Comprehensive Plan.

It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. The accessory building is constructed to be complimentary to the primary residential structure.
2. Use of the accessory building meet the requirements of the R-R District Standards and section 4-448: Provisions of Home Occupations.
3. A Signed Conditional Use Permit Agreement is received.

There were no comments from the public. The hearing was closed.

Commissioner Walker made a motion for approval subject to the three conditions listed in the staff report. Commissioner Kolb seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A18-5 Planned Unit Development Amendment for a Medical Center at 1220 Sheyenne Street (Lot 18, Block 3 of Lepirds Addition), City of West Fargo, North Dakota.

Tim reviewed the following:

A Planned Unit Development for a major renovation to the existing clinic was approved by the City Commission on March 20, 2017. Sanford Health has since changed their plans for a two phased renovation and is planning to completely build the new clinic next to the existing clinic and tear down the existing clinic when the new clinic is finished.

The building elevation plans show a 2-story building with the front facing 13th Avenue West. A canopy drop-off area is shown on the south. The building is to be faced primarily with EIFS with brick and cast stone detailing. A dominant corner façade is included for visual detail of the building at the corner to highlight the building facing the Sheyenne and 13th intersection.

The existing clinic has approximately 90 parking spaces for an approximately 12,163 ft² building. The new proposal is to provide 147 spaces for a 26,317 ft² clinic. Parking for medical offices and clinics according to the parking regulations would be five spaces per doctor, plus one additional space per employee on the largest shift. The project narrative states that the building has the potential for housing 30 providers. This would require 150 parking stalls and 1 stall per employee at the largest shift. If it can be demonstrated by the property owner through market studies or other means that the required off-street parking is excessive and/or a lower parking demand is supported by the Institute of Traffic Engineers Parking Generation manual and a lesser requirement justifiable, the City Commission may reduce the number of required spaces by passage of a resolution approved by a majority of the members of the City Commission.

The staff reviewed the access points in light of existing access control standards and future plans and studies for the area. Although they would permit the access locations at this time as existing, there is potential they may be restricted in the future if conditions change and the current access interrupts the functional area of the intersection of Sheyenne Street and 13th Avenue.

The applicant intends to provide signage in a monument and on the walls which are facing public view. The signage in the district would not allow greater than 32 ft² as institutional signage, however it can be increased through the PUD. Staff would suggest following the C-OP District standards to limit signage to one wall mounted sign for each public street frontage not to exceed 80 ft² per sign and one monument-style sign limited to 150 ft² and 35' in height.

Property owners within 150' and applicable agencies and departments were notified. No comments were received.

It is recommended that the City approve the proposed application on the basis it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Parking requirements are further refined and if necessary shared parking agreements are provided to be considered in a resolution for reduction in parking by the City Commission.

2. Signage follow the standards set in the C-OP: Commercial Office Park district regulations.
3. Development be subject, but not limited to sections 4-431-B CO-R: Redevelopment Corridor Overlay District, 4-440 Supplementary District Regulations, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations.

There were not comments from the public. The hearing was closed.

Discussion was held regarding parking. Commissioner McDougall asked for clarification on the parking as he thought the requirements seemed excessive. Tim stated that since the staff report was prepared, he reviewed the ITE Parking Generation Manual and counted offices. Chair McDougall asked if the building were to be used differently, for office, what the parking requirements would be. Tim stated about 130. Specifically, an average peak demand of 1 space per 200 ft² of gross floor area resulted in a parking requirement of 132 spaces. The clinic is proposing to provide 147 parking spaces. Staff recommends a reduction in parking.

Sanford Representative Phillip Siek stated that currently they have 84 parking spots with 20 providers. It would be rare for them to have a full house. Using the rule of thumb 5 spaces per doctor, would be excessive. They'd have people lining up. They would never have that number waiting at one time. They will open with about 20-22 providers, not all will be on site at the same time. Some of the OB-GYN staff would be delivering babies, nurses could be working at other sites

Commissioner Reinke asked about shared parking requirements. Tim indicated there would be options available at the former Park District offices.

Commissioner Kolb made a motion for approval subject to the three conditions listed in the staff report. Commissioner Reinke seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A18-6 Amendment to Section 4-400 of West Fargo City Ordinances to provide for district regulations which support suburban town center development patterns in select areas of the community which would be supported by approved City plans and developments; and Amendment to Section 4-431.D: CO-S: Sheyenne Street Corridor Overlay District to provide accommodations for signage for properties with a zero front yard setback.

Tim reviewed the following:

Staff is proposing two text amendments to Section 4-400, Zoning Regulations. Section 4-431: CO: Corridor Overlay District text amendment to accommodate expansion and allow for flexibility in development within the Corridor Overlay district along Sheyenne Street south of Interstate 94 to 40th Avenue and 32nd Avenue west of Sheyenne Street; Section 4-431.D: CO-S: Sheyenne Street Corridor Overlay District text amendment to provide accommodations for signage for properties with a zero front yard setback. The specific sections with proposed changes highlighted in red were attached to the staff report for reference.

Tim stated that with the Sheyenne Street project being proposed as 6 lanes instead of 4 lanes, there would be issues with several legal nonconforming lots if the front yard setback requirements remained. The proposed ordinance amendment to Section 4-431: CO: Corridor Overlay District would remove the front yard setback requirement on a section of Sheyenne Street between Interstate 94 and 40th Avenue and on a section of 32nd Avenue West, west of Sheyenne Street. The purpose of the amendment is to provide for properties along the newly designed Sheyenne Street to remain economically productive. The land adjacent to the roadway is either platted, developed, or has limited depth due to the Sheyenne River and therefore becomes very limited to develop after right of way acquisition as a result of Sheyenne Street widening and when left with a currently required 45' front yard setback to Sheyenne Street.

The reduced front yard setback is a step toward encouraging suburban development that is more productive and could be likened to that of the approved Sheyenne/32 development and concepts provided in West Fargo 2.0. It is likely that the Ordinance will be further revised in the near future to encourage this type of mixed use pattern of development.

Section 4-431-D.1: CO-S Sheyenne Street Corridor Overlay District, proposes to add a provision that would allow wall signs or protruding wall signs to encroach into City right of way where the required zero front setback is being met. The encroachment would require approval by the City Commission and would also require an encroachment agreement which could address such issues as height and other related specifications to ensure aesthetics and safety.

There were no comments from the public. The hearing was closed.

Commissioner Walker stated concern with creating an ordinance which seems to encourage encroachments in the right-of-way

and potential issues with ND-DOT funding. Larry stated that if located on a federal road, but this is not a federal road. Commissioner Walker referred to issues in Fargo where the DOT threatened to suspend funding along 1st Ave and Broadway due to sandwich boards, sidewalk cafes. Larry stated that with the West Fargo sign code, no encroachments for signs are allowed. Dustin stated that the City doesn't have a policy regarding encroachment agreements and is working with the City Attorney.

Discussion was held regarding how other communities handle similar sign requests. Larry indicated that the City will be looking at a total overhaul of the zoning ordinance after the Comprehensive Plan is complete. With the Sheyenne Street District vision, it is more conducive to have buildings close to the street, more pedestrian friendly.

Tim stated that with the Sheyenne Street Corridor Overlay, a zero front setback is encouraged; however, there is now a request from a business to place a sign on a building. Chair McDougall asked about signs encroaching vs. billboards. Tim stated that this would only include the Sheyenne Street Corridor Overlay District. The current sign code doesn't allow signs like the VFW is requesting.

Tim stated that the intent is to maintain the sign code. We want to encourage 0' front yard setback and with that comes sign requests. Discussion was held regarding overlay districts. Tim stated this would only apply to 0' setbacks along Sheyenne Street from Main to 7th Avenue.

Commissioner Kolb made a motion to recommend approval of the ordinance amendments are printed. Commission LeBahn seconded the motion. No opposition. Motion carried.

The next item on the agenda was A17-42 Detailed Development Plans for Pioneer Place.

Tim reviewed the following:

At the December 11, 2017 meeting, the Planning and Zoning Commission approved the concept development plans with additional recommendations that the developer provide a construction parking plan to avoid nuisance to the neighborhood as was demonstrated with the adjacent Sheyenne Plaza and that detailed development plans include restrictions from signs being placed on the west elevation of the building facing residential properties.

The applicant has provided an updated plat, site plan, floor plan, and building elevations. There have not been any major changes to what was previously provided to note. The applicant still intends to fit up the north and south main floor units with tenants that utilize the front door and patio space with available parking, however these plans will not develop until a tenant is secured. The overall footprint will likely be unchanged, however minor details will result in changes to the package presented at this time. If changes are substantial enough, a PUD Minor Modification or PUD Amendment may be necessary.

In regards to the improvements and layout in the site plan, the City is pursuing a grant for improvements to Sheyenne Street from Main Avenue to 7th Avenue through the Governor's Urban Grant Program and some different layouts of diagonal parking and access in cooperation with Choice Financial are being developed. These are not finalized, but would take part in the right of way and would require final design approvals from the City Commission. Because they do not affect the plat, and will have future approvals staff is recommending to allow that process to take place separate from this application.

It is recommended that the City approve the proposed application on the basis that it may be considered consistent with City plans and ordinances with following recommended conditions of approval:

1. A construction parking plan is provided and approved by City Engineer and Public Works Director to avoid nuisance to the neighborhood.
2. No illuminated signage is allowed on the west elevation which faces residential properties.
3. Continued consideration be given to reducing access points and parking adjacent to Sheyenne Street to be consistent with CO-S: Sheyenne Street Corridor Overlay District and concepts currently provided in draft of West Fargo 2.0.
4. Parking requirements are further refined and if necessary shared parking agreements are provided to be considered in a resolution for reduction in parking by the City Commission.
5. Development will be subject, but not limited to CO-S: Sheyenne Street Corridor Overlay District, 4-440 Supplementary District Regulations, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations.
6. Utility and infrastructure as well as any current or future drainage considerations be addressed and included in the Public Private Partnership (P3) or developer's agreement.

Discussion was held regarding access points and the Urban Grants Program.

Commissioner Diamond made a motion to approve the Detailed Development Plans based on staff recommendations. Commissioner Kolb seconded the motion. No opposition. Motion carried.

The next item on the agenda was continued Public Hearing – A18-2 Tehar 2nd Addition, subdivision and rezoning from Agricultural to C-OP: Commercial Office Park for property in the SE¼ of Section 18, T139N, R49W, City of West Fargo, North Dakota.

Tim stated that the applicant has been approached by the City of West Fargo on the acquisition of land for storm sewer needs to support the upcoming Sheyenne Street project. The project also includes partial reconstruction of Beaton Road. In light of this, and due to the limited buildable area of the previously proposed Lot 2, the developer is seeking to change the zoning request from C-OP: Commercial Office Park to PUD: Planned Unit Development.

The applicant has provided a conceptual site plan and conceptual building elevations to demonstrate to the City his intentions for developing the property. The applicant also wishes to include the previously platted Tehar 1st Addition into a new plat and zoning request. Staff is recommending that the applicant's plans be approved as a PUD in concept with a requirement for re-advertising to accommodate the increased land area and for the applicant to provide detailed development plans in the form of a final site plan, floor plan, and building elevations or in the form of PUD District Standards for the Tehar Additions.

Staff is recommending that the Planning and Zoning Commission remove the application from the table to consider review and approval of the proposed changes to the application as a conceptual review of a Planned Unit Development. Staff would further recommend that the application be approved on the basis that with recommended conditions that the application is consistent with City plans and ordinances. Recommended conditions for approval are as follows:

1. Staff re-advertise for a public hearing to include Tehar 1st Addition into the original application.
2. Preliminary plat and other necessary application materials are updated prior to applicable required deadlines.
3. Developer provide to the Planning and Zoning Commission either detailed development plans of the property including site plan, grading and utility plan, floor plans and building elevations or district standards which address the proposed setbacks and roadway design, and regulations which are consistent with the intent of the C-OP: Commercial Office Park zoning district.

Commissioner Walker asked if there was an update regarding Beaton Drive. Dustin stated that they verbally acknowledge they will allow the City to urbanize it, but cannot put utility easements within it.

Discussion was held regarding the property being developable as a PUD. Tim indicated the importance of getting the Sheyenne Street project wrapped up and concerns with delaying it. The request is conceptual and details would be determined through the Detailed Development Plan phase.

There were no comments from the public. The hearing was closed.

Commissioner Walker made a motion to remove the application from the table to consider review and approval of the proposed changes to the application as a conceptual review of a Planned Unit Development based on the three conditions listed in the staff report. Commissioner Reinke seconded the motion. No opposition. Motion carried.

The next item on the agenda was Continued - Public Hearing – A17-36 The Wilds 10th Addition.

Larry stated that he had emailed the developer and there were no updates. Staff would like to see something final by the next meeting or the applicant would need to start over.

The next item on the agenda was Comprehensive Plan Update. An open house has been scheduled for the afternoon of March 5th with a presentation at the March 5th City Commission meeting and from 9 am to 3 pm on March 6th with a noon presentation.

Commissioner Reinke made a motion to adjourn. Commissioner Walker seconded the motion. Meeting adjourned.